IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 12TH JUNE 2007 / 22ND JYAISHTA 1929

Crl.MC.No. 1882 of 2007()

CC.580/2001 of JUDL. MAGISTRATE OF FIRST CLASS COURT, CHALAKUDY

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PETITIONER: ACCUSED:

MUHAMMED KUTTY, S/O. ABOOBAKKAR,
OLICHIYIL VEEDU, KALTHOTTI, CHELAKKARA.

BY ADV. SRI.P.SANTHOSH (PODUVAL)

RESPONDENTS: STATE & COMPLAINANT:

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1. STATE OF KERALA,
REP. BY S.I. OF POLICE,CHELAKKARA POLICE STATION,
THROUGH THE PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM.

2. SANTHANA GOPALAM,
KRISHNA NIVAS, GRAMAM, CHELAKKARA.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB
SMT.R.RAJITHA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.1882 of 2007

Dated this the day of June, 2007

ORDER

Petitioner faces indictment in a prosecution under Section 420 I.P.C. The proceedings were initiated as early as in 2001. Consequent to non appearance of the petitioner, the case stands transferred to the list of Long Pending Cases. The petitioner was not available in India. He has now returned to India. He wants to surrender before the learned Magistrate. There is every chance of the matter being settled with the complainant. But the petitioner apprehends that his application for composition and the application for bail, if filed, may not be considered by the learned Magistrate in accordance with law, expeditiously and on merits. He therefore seeks a direction under Section 482 Cr.P.C.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. The learned Magistrate must consider such application for bail on merits, in accordance with law and expeditiously. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction

appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

3. This Crl.M.C is, in these circumstances, dismissed, but with the specific observations that if the petitioner surrenders before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously-on the date of surrender itself. And if the petitioner along with the complainant appears and makes an application for composition, the learned Magistrate shall proceed to dispose of such an application also in accordance with law, expeditiously and on merits-on the date of surrender itself, unless there are compelling reasons.

4. Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

rtr/-